



*The Commonwealth of Massachusetts
Commonwealth Health Insurance Connector Authority
100 City Hall Plaza
Boston, MA 02108*

CHARLES BAKER
Governor

MARYLOU SUDDERS
Board Chair

KARYN POLITO
Lieutenant Governor

LOUIS GUTIERREZ
Executive Director

Board of the Commonwealth Health Insurance Connector Authority

Minutes

Wednesday, October 4, 2017
9:00 AM to 11:00 AM

One Ashburton Place
Boston, MA 02108
21st Floor Conference Room

Attendees: Louis Gutierrez, MaryLou Sudders, Gary Anderson, Rina Vertes, Nancy Turnbull, Lou Malzone, Dimitry Petion, Michael Chernew, Mark Gaunya, Roberta Herman, Meghan Sisk (who was sitting by designation on behalf of Secretary of Administration and Finance Michael Heffernan).

The meeting was called to order at 9:07 a.m.

- I. Prior to the vote on the minutes from the July 13, 2017 Board meeting, Secretary Sudders informed the Board on the importance of the day's meeting, which includes the Seal of Approval vote and managing the federal government uncertainty surrounding cost-sharing reduction payments (CSRs). Secretary Sudders noted the importance of CSRs in the affordability of coverage for over 150,000 ConnectorCare members and commented on the risk associated with losing the payments. She noted Governor Baker's call for swift action by the federal government to find a resolution related to various streams of federal funding for critical healthcare programs, and highlighted continued work by members of the Governor's team, as well as hers, who are in constant communication with federal partners. She stated that today there would be review of both paths developed by the Health Connector (CCA) to respond to CSR uncertainty. She commended the work of CCA and the Division of Insurance (DOI) in developing approaches that protect members first and foremost. She added that commitment to coverage and minimal member and market disruption remain priorities. Prior to

beginning she thanked all contributors, including advocates, carriers, the Massachusetts Association of Health Plan (MAHP), and all staff, for their continued support and collaboration during this challenging time.

- II. Minutes:** The minutes of the July 13th, 2017 meeting were unanimously approved.
- III. Executive Director's Report:** Mr. Gutierrez began the meeting by thanking Secretary Sudders for her comments, as she captured the situation precisely. In response to recent claims from other states, he confirmed Massachusetts remains the state with the highest rate of insured, as supported by US census data. He then noted that the ConnectorCare benchmark premium is the second lowest Exchange benchmark in the country and it continues to decrease each year, sharing data from the Health Policy Commission (HPC). He stated that CCA remains committed to access and affordability and that this has an impact across the market. He explained the reasoning for the postponement of the September Board meeting as CCA has been actively developing contingency plans in real-time with carriers. Regarding CSRs, he stated that CCA's goal was to avoid exercising any contingency plans until CSR payments were definitively withdrawn. He stated that there are significant number of member downgrades being projected for this Open Enrollment, largely resulting from lack of information returned from federal data sources. He commented that this occurred during last year's Open Enrollment, but on a much smaller scale. He explained that CCA will be messaging members to come back and update their information with the expectation that the number of downgraded members will decline.
- IV. Federal Flexibility Request Update:** The PowerPoint presentation "Federal Flexibility Request Update" was presented by Audrey Gasteier and Emily Brice. Ms. Gasteier began the presentation by noting that the Federal Flexibility requests were submitted to federal partners last month. She noted that, although Massachusetts maintains the highest rate of insured in the country, there are always ways to improve and enhance stability. She commented that CCA, with partners and sister agencies, identified flexibility changes to pursue. She reviewed the activity leading up to submitting the flexibility request, including the release of draft proposals and the public comment period. She noted that CCA received 11 comments that were helpful in refining the final proposal, submitted on September 8, 2017.

She began reviewing the flexibility requests that were submitted, noting that the premium stabilization fund request would be explored in greater detail during the Seal of Approval (SOA) presentation. Ms. Brice then provided information on the request for "Relief from the Employer Mandate" and associated reporting requirements. She commented that the federal shared requirements do not meet the range of needs in the Massachusetts market. She stated that the Massachusetts legislature passed a state specific employer contribution bill over the summer, and the Governor sent a letter this summer requesting relief from the federal requirements. She noted that this request is awaiting response from the Center for Medicare & Medicaid Services (CMS), and the United States Treasury Department.

Ms. Gasteier then reviewed the federal request for continued flexibility on use of rating factors. Ms. Gasteier stated that prior to the Affordable Care Act (ACA) the Commonwealth used rating factors that are still in use, but are no longer compliant. She continued that through the authority of a federal waiver under Section 1321(e) of the ACA, the rating factors remain in use in Massachusetts but are slowly being phased out. The flexibility to use these rates expires at the end of 2018 and the request the Commonwealth submitted asks that continued use of the rating factors remain an option. Ms. Gasteier added that dialogue regarding the request has begun with CMS. Ms. Turnbull commented that she supports the request made, but would be interested in an analysis of the impact of eliminating these rating factor on the Massachusetts market, Ms. Gasteier replied that there has not been an analysis of this kind since 2013.

Ms. Gasteier continued with an overview of flexibility requests that are under exploration, including an interest in reintroducing Section 125 (employer-run tax-deferred) plans as a means to purchase coverage on the Exchange. She stated that a legal pathway had not yet been identified but there is active exploration on possible administrative pathways through the Group Market Exchange platform. She noted that Governor Baker had commented on the permissibility of using Section 125 plans to purchase Exchange coverage while he was testifying before Congress in September. In response to a question from Ms. Turnbull regarding usage of this option when it was available before passage of the ACA, Ms. Gasteier responded that several thousand individuals used the option via CCA, but that CCA was not the only mechanism to take advantage of these plans.

Ms. Gasteier then reviewed the interest in bringing the small business tax credit under Commonwealth authority. She explained that analysis of this will take time, but there is an interest in commencing work by the end of the calendar year, if possible. She concluded with an overview of the next steps with respect to all federal flexibility requests, which largely rely upon federal feedback. With respect to the small business tax credit, Ms. Turnbull commented that it would be interesting to learn from successful models in other states.

- V. **Final Award of 2018 Seal of Approval (VOTE):** The PowerPoint presentation “Final Award of 2018 Seal of Approval” was presented by Audrey Gasteier, Emily Brice, Brian Schuetz, and Kevin Beagan. Before the presentation began, Mr. Gutierrez thanked DOI and introduced Kevin Beagan from DOI as part of the panel. Commissioner Anderson commented on the wonderful partnership between DOI and CCA and recognized CCA staff for all of their work. He commented on the unprecedented process of developing an additional set of rates and noted that the first quarter rates for 2018 would be made public later in the day. Ms. Gasteier then provided an overview of the Seal of Approval (SOA) presentation, noting that it would begin with a review of products not affected by CSR withdrawal.

Mr. Schuetz began the presentation by noting that despite all of the changes during this year’s SOA process, the process itself remains unchanged since its inception and is a critical part of defining the Qualified Health Plan (QHP) and Qualified Dental Plan

(QDP) offerings. He continued that this is the third iteration in the process of defining the value and finalizing plans for calendar year 2018 (CY18).

He stated that dental remains stable, and reviewed the providers that are on the small group and non-group shelf. He noted that two providers submitted waivers of sale, which allows them to sell their products exclusively off the Exchange. Lastly, he noted that the dental shelf remains unchanged from previous years. In response to a question from Ms. Turnbull regarding components of stability, Mr. Schuetz responded that there is relatively low or single digit dental rate increases which are in-line with market increases.

Mr. Schuetz continued to review the QHPs available, noting one change in offerings since July, resulting in an additional bronze plan. He stated that Minuteman and Celticare will not be returning to the shelf. He continued that there is relatively low membership in the plans that will be closing, which will result in a minimal member disruption. He elaborated that these members will be mapped into a new plan. Mr. Schuetz then presented rate data supplied by carriers in order to offer an analysis of member facing rate changes, noting that with the significant variety among carriers, if a member were to shop, rate increases could be as low as seven percent, exclusive of the silver tier products. Dr. Chernew commented that Massachusetts health care spending growth is reported to be below the figures mentioned and with a relatively stable population, he is curious as to how these trends are reconciled and what are the underlying trends contributing to this spending growth. Dr. Herman added her interest in understanding the discrepancy in the trends in aggregate as an underlying trend versus the choices that members make when they shop. Mr. Gaunya commented that there are differences between employers who are self-insured and employers in the smaller employer market, commenting that the self-funded trend is lower than the fully insured trend in the merged marketplace. Mr. Beagan noted that higher costs of pharmaceuticals contribute to carrier cost trends for small employers while larger employers have different cost trends. Mr. Gaunya noted that specialty pharmacy is a contributing factor, but it is important to also focus on non-pharmaceutical factors that are increasing as well.

Mr. Schuetz continued with the review of the process for member mapping, i.e., moving members who do not actively select a new plan but whose plan is closing. He continued that although mapping is a backstop, CCA continues to drive home the opportunity and importance of shopping. He stated that while premiums are increasing, there remains a range of offerings for members to shop and select from.

Ms. Gasteier then began the discussion surrounding CSR uncertainty. She explained how CCA prepared for the uncertainty, developing contingency plans that respond to the relationship between subsidized and unsubsidized silver tier members. She noted that there have been unclear signals from the federal administration and that discussions shift month to month in response to activity on the federal level. While final action by the federal government remains uncertain, CCA partnered with DOI and carriers to design scenarios in response to both continued payments of CSRs and their elimination, each scenario focused on as minimal harm to members as possible. Ms. Gasteier reviewed the proactive steps CCA is taking to solve for the uncertainty, including developing two sets

of rates, the Massachusetts federal waiver request, and monitoring Congressional activity related to CSR funding. She provided greater detail on the waiver request submitted to the federal government to allow pass-through funding to stabilize premiums. She noted that Alaska had submitted and was approved for a waiver request, and Alaska's thinking provided inspiration for this waiver. Secretary Sudders clarified that the federal waiver request is an additional path, working in parallel with efforts to pursue Congressional commitments to CSRs. Ms. Gasteier confirmed that these are two federal solutions that are being pursued, with Congressional action being preferred as the waiver request can take time for review. She noted that CMS had not yet provided any signals with regard to the waiver. In response to a question from Ms. Turnbull regarding CSR federal liability, Ms. Brice stated that if CSRs go away it will be approximately \$146 million, but if CSRs continue to be paid, then advanced premium tax credits (APTC) will be used in conjunction with CSRs. Secretary Sudders noted that eliminating CSRs will cost the federal government more. Mr. Beagan commented that the contingency approaches were complicated and carriers needed stabilization and clear options in order to protect themselves going forward; it was clear that certain carriers would not be able to weather the loss of this funding. He shared that for the last two to three months, carriers have been meeting with CCA and DOI regularly to discuss contingency plans and there was no perfect solve, but the goal was to stabilize the market and offer products on Exchange and in the overall market.

In response to a question from Dr. Chernew regarding different levels of CSRs, Mr. Schuetz began to describe the composition of ConnectorCare funding. He provided a breakdown of funding for premiums and the funding streams of CSRs, and how they interact with one another. He stated that as one decreases there is an opportunity to offset the decrease with an increase of the other, in this case, premium increases. Secretary Sudders noted that the 'state wrap' in Massachusetts is unique and our plans are among the most affordable. Mr. Schuetz agreed and added that this makes the need for a resolution even more important. In response to a question from Mr. Malzone regarding the state's commitment to state funded CSRs, Mr. Gutierrez responded that CCA needs to understand its path forward if federal funding is eliminated, but nothing at this time suggests concerns with the state's commitment to funding. He added that premiums could be higher without state funding and Dr. Chernew questioned if it would be possible for premiums to remain the same if state CSR funds were eliminated, resulting only in the modification of the richness of plans to offset those funds.

Mr. Schuetz then stated that the five ConnectorCare carriers filed two sets of rates for the silver tier products to account for the risk for the loss of CSRs. He continued that the rates increases affect only on Exchange, silver tier plans that are issued by ConnectorCare carriers. He stated that as a result of this approach the ConnectorCare members will be made whole because as the premiums increase, the APTC amounts will increase. He continued that unsubsidized members in silver plans offered by ConnectorCare carriers will see significant increases that cannot be mitigated because those members do not receive subsidies to offset the premium increase. Mr. Petion asked how unsubsidized members will be educated about the impact of CSRs, which Mr. Schuetz noted would be forthcoming in the presentation. In response to a question from Dr. Chernew regarding

distinction between subsidized and unsubsidized members, Mr. Schuetz noted that this does matter, but in the aggregate the math behind this theory is designed to make the market whole. In response to a concern from Dr. Chernew regarding the actuarial value of plans and elimination of CSRs, Mr. Schuetz noted that unsubsidized members will see a premium increase to compensate for the loss of CSRs, and noted that mitigation for these members will be to shop for a plan that meets the member's needs. Mr. Beagan added that there was great care in designing contingency plans so there would not be unintended impacts for unsubsidized members, and elaborated on the rationale behind the contingency plans. He stated that there will be a great deal of mapping and education that will need to occur for both on and off-Connector products in order to reflect member needs. The goal, he concluded, is to establish a process that disrupts the fewest people and find pathways to most affordable products elsewhere.

Ms. Brice then provided a review of how other states have approached this issue and noted that CCA is in regular contact with other state-based Exchanges and the federally facilitated marketplace to gauge the range of approaches. She included that some states still have not made final decisions, but all states have expressed difficulty in finding the right approach, as it appears one may not exist. In response to a question from Dr. Herman regarding the deadline California has identified to make a decision, Ms. Brice stated that CCA's understanding is October 11. In response to a comment from Dr. Chernew regarding an approach to switch rates if CSR payments are changed, Mr. Gutierrez commented that switching rates would be unprecedented and would result in serious disruptions in all spheres. Mr. Beagan commented that when developing our paths forward it was important to look at Massachusetts specifically and the factors that make our market unique, which also add challenges. In response to a question from Secretary Sudders regarding the start date of Open Enrollment in California, Ms. Gasteier commented that it is November 1.

Mr. Schuetz noted that if there is a need to use the higher rates this will be challenging for members for a number of reasons and he reviewed the possible paths forward for the unsubsidized members. He noted that this will require a robust communications strategy and evaluation of member needs. Ms. Gasteier added that it is a priority that members find the plan that best meets their needs and if higher rates is the route that CCA takes, the communications campaign will be high touch and require continued work with carriers on messaging, using multiple mediums to engage members. She noted that the 33,000 members in unsubsidized plans, and the additional members being moved out of out of subsidized coverage remain at the forefront of CCA's efforts, and messaging will be tailored to these members. The paramount goal, she added is that no one loses coverage, regardless of where they may land. She reiterated that discussions continue daily and options will remain open for as long as possible. She commented that CCA continues to monitor the signals from the federal government and any communications with regard to the federal waiver request.

Mr. Schuetz then provided a review of the ConnectorCare program and structure. He highlighted where carriers have moved, and stated that at least one carrier is present in each region. He reviewed the two different sets of enrollee contributions with the lowest

cost set at affordability and noted the premium ranges as a result of the uncertainty surrounding CSRs. In response to a question from Ms. Turnbull regarding the lowest cost plan available, Mr. Schuetz confirmed that because of the affordability schedule there is a one dollar change increase in this year's lowest cost premium compared to last year's lowest cost plan. In response to a question from Ms. Turnbull regarding member facing premium increases, Mr. Schuetz noted that higher cost carriers are seeing higher increases.

In response to requests from Ms. Turnbull and Dr. Chernew regarding clarification on what the vote would authorize and what the process is for determining which rates would be used, Mr. Gutierrez outlined the timeframe for loading the rates that would be used. He continued that the rating approach in the event of the elimination of CSRs had been settled, but that there was still work to be done in order to decide which set of rates would be used. He stated that the goal is to proceed with the standard rates that do not compensate for the elimination of CSRs. Secretary Sudders then commented that a final decision on CCA rates would be made next week following continued carrier conversations. Dr. Chernew clarified that setting rates is not a Board vote. Ms. Turnbull noted her support to wait as long as possible before loading rates, but questioned what would be used in the event of no additional certainty. Secretary Sudders confirmed that CCA will wait as long as possible and then base the decision off of conversations that have occurred. In response to a question from Mr. Petion regarding the last possible date to load the system, Secretary Sudders recognized the stability of CCA's system but noted that a decision early in the next week is the timeframe at this time. Dr. Herman commented on the unfortunate position that all states are in and is grateful there is an opportunity to make a choice. She noted the importance of being vigilant and thanked CCA and DOI for their incredible work. Dr. Chernew added that this is an almost impossible situation and he understands the contingencies and complexities that come with each decision. Secretary Sudders acknowledged that the decision is incredibly difficult but reassured that there will be a path, and carriers have been incredibly helpful throughout this time. Mr. Gutierrez added that the carriers have been working very closely with CCA and would prefer the least disruptive path but it is a matter of assurances and communications. He noted that notification of how to proceed would be shared with the Board before Tuesday morning when CCA anticipates loading the rates. In response to a concern from Dr. Chernew regarding overpayment to carriers if CSRs remain and higher rates are used, Mr. Beagan noted that DOI performs MLR review and if carriers do not meet MLR standards, reimbursements will be made to members. In response to a question from Ms. Turnbull as to whether the MLR payment would be returned to the specific people that pay the premium, Mr. Beagan clarified that it would be returned to the individual or small group. With no additional questions the Board voted unanimously to approve the Heath Connector recommendation to award the 2018 Final Seal of Approval as outlined in the presentation.

- VI. Student Health Insurance Program Update:** The PowerPoint presentation "Student Health Insurance Program Update" was presented by Maria Joy Dawley, David Greco and Colleen Murphy. Ms. Dawley began the presentation by providing an overview of the presentation, which would have two parts: an update on renewals that CCA helped

facilitate on behalf of universities and colleges, and an update on the premium assistance program. In response to a question from Secretary Sudders to Board members, Dr. Herman stated that she was not familiar with the background of the Student Health Insurance Program (SHIP) program. Ms. Dawley then provided a review of the SHIP program, stating that it is a product of a state law that requires that all students in higher education to carry insurance. She reviewed a student's ability to waive coverage and noted that since the implementation of the ACA in 2014, enrollment in student health plans started to decline because students were able to get Medicaid or other forms of subsidized coverage, but with the introduction of the MassHealth Premium Assistance (PA) program enrollment in SHIP in public colleges and universities has started to increase. Ms. Dawley then reviewed the projected premium increases for the 2017/2018 Academic Year (AY); however increases remained below estimates and dropped further as a result of plan modifications. In response to a question from Ms. Turnbull regarding the participation of University of Massachusetts Amherst, Ms. Dawley noted that they are self-funded.

Mr. Greco then provided review of the PA program, and the role of MassHealth in assisting students who have access to private insurance. He continued that MassHealth also determines eligibility for this program and assesses cost effectiveness of the program. He stated that students maintain their MassHealth coverage while having access to the broader network of services offered through the SHIP program. He stated that the program recently became a mandatory program. He stated that there has been a lot of positive feedback and the program has identified the need for increased education and communications around coordination of care. In response a question from Ms. Turnbull regarding the execution of the survey, Ms. Murphy provided details on how they collected comments and concerns. Mr. Greco continued with review of the launch of the mandatory program and the system and operational updates that were required. Secretary Sudders added that as a result of an 1115 waiver, the program switched from voluntary to mandatory.

Mr. Greco reviewed the expansion of the SHIP program, noting growth in participation amongst colleges and universities. In response to a question from Dr. Herman regarding enforcement of mandatory enrollment, Ms. Murphy, noted that this is a challenge, but with the requirement to waive enrollment in the SHIP program, administrators are able to identify and verify those students who are waiving because of enrollment in MassHealth. In response to a question from Ms. Turnbull regarding students who are eligible for MassHealth but not enrolled, it was acknowledged that this is an area where more outreach and exploration can be completed. Secretary Sudders commented in conclusion of the presentation that this is a way to assure coverage for students while providing cost savings to the Commonwealth with no material impact on members.

- VII. 2018 Open Enrollment Readiness Overview:** The PowerPoint presentation "Open Enrollment Readiness" was presented by Vicki Coates and Marissa Woltmann. Ms. Woltmann began the presentation by sharing the Open Enrollment timeline and reviewed the purpose and content of preliminary eligibility noticing and the message to members to come back and update their information if it is not correct in our system. She explained

that CCA is projecting significant member movement as a result of the preliminary eligibility process, with the majority of changes due to the Internal Revenue Service (IRS) not providing income information. She reiterated that members can easily return to update their income, which may require proof of income. She stated that there are instructions in the notices and there will be special mailings to go out to affected members. She reviewed additional member supports, noting that the Open Enrollment period for Massachusetts is extended once again past the federal deadline, cited system enhancements that include the new payment center and the ability to review notices, and the provider search capabilities that will allow members to filter out plans that do not have your provider.

Ms. Coates stated that there is an improved billing format from the previous year, and that there is positive feedback from the changes. She noted the ease of online payments with the new payment center, with a significant increase in online payments being made. She shared that notices to encourage members to shop for new plans were included with their bills previously, and this same approach will be employed this Open Enrollment. She reviewed the in-person assistance available to members and noted that because of the high traffic level of traffic, a year round walk-in center will be open in Brockton. She stated that with the procurement of the Navigators program for the next year, there have been certain cities and communities identified where the uninsured populations would benefit. Ms. Coates continued with review of the preparations for Open Enrollment by our vendor who operate our call centers and noted that there is extra training to prepare. In response to a question from Dr. Chernew regarding worst case scenarios for CSR withdrawal, Ms. Coates commented that last year CCA worked with carriers on communications and this would be included in this year's strategy as well. In response to Ms. Turnbull's concerns regarding lack of substantive update on outreach efforts, Ms. Coates acknowledged that including those updates would have been helpful, but noted that the outreach campaign remains strong and fully leverages advertising, the Navigator program, and ethnic media.

The meeting adjourned at 10:51 AM.

Respectfully submitted,

Erin E. Ryan